

Report to:	Planning Committee
Decision or Item number	3
Relevant Officer:	Gary Johnston, Head of Development Management
Date of Meeting	8 th September 2014

PLANNING/ENFORCEMENT APPEALS DETERMINED/LODGED

1.0 Purpose of the report:

- 1.1 The Committee is requested to note the planning and enforcement appeals, lodged and determined

2.0 Recommendation(s):

- 2.1 To note the report.

3.0 Reasons for recommendation(s):

- 3.1 The Committee is provided with details of the planning and enforcement appeals, lodged and determined for its information.

- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes

- 3.3 Other alternative options to be considered:

None

4.0 Council Priority:

- 4.1 Not applicable

5.0 Planning/Enforcement Appeals Determined

5.1 97-107 Egerton Road, Blackpool. FY1 2NN (13/8433)

Appeal by Mr. P C Maher against the service of an Enforcement Notice relating to breach of condition 1 on 12/0799 re: operating hours (it appears to the Council that the condition has not been complied with because the premises has been operating outside of these permitted hours; and breach of condition 2 on 12/0799 re use a spa and sauna with steam-

room and sun-bed facilities (it appears to the Council that the condition has not been complied with, because the premises has been operating as a swinger's club).

Appeal dismissed.

The Inspector noted that re: condition 1, it is not disputed that the use operates until 03.00 hours on Saturday nights / Sunday mornings. He heard during the Informal Hearing that the premises are locked at midnight so that no one can gain entry. Regardless of whether the activity that takes place constitutes or is akin to a private party the Inspector stated that it seemed that the fact that customers are using the premises after the permitted time is a clear indicator that the condition has not being complied with.

Re: condition 2, the Inspector stated that at the Informal Hearing, it was apparent that the appellant regarded the term "sauna" as synonymous with a facility that offers opportunities for sexual encounters. Whether this is a general perception or one peculiar to Blackpool is hard to say, but the Inspector noted that the dictionary definition of sauna is "a building or room equipped for a Finnish form of steam bath" and those for spa include "an establishment offering steam baths and other health treatments" and "a heated bath or pool of aerated water." In the light of this, the Inspector's view is that it is reasonable to interpret both the description of the approved use and condition 2 in this manner, and neither of these terms necessarily encompasses the provision of facilities for accommodating activity of a sexual nature as part and parcel of the permitted use.

The Inspector's impression following the site visit was that a good deal of the accommodation is given over to facilitating sexual encounters. The sauna, jacuzzi and sun-bed facilities remain, but I am unable to concur with the view that the other facilities are ancillary to this. Their scale and nature is such that he regards them as part and parcel of a wider use that amounts to significantly more than that permitted. His view is that, as a matter of fact and degree, the character and nature of the overall use of the premises is such that a significant part of it falls outside the ambit of, and does not accord with, condition 2.

The Inspector said he did not consider it possible to demonstrate 10 years use, and he was not satisfied that the available evidence was sufficient to demonstrate that at the time the notice was issued, it was too late for enforcement action to be taken; the burden of proof that lies with the appellant has not been discharged.

The Inspector then considered the deemed planning application, and he considered the main issue to be whether the living conditions of local residents would be adversely affected. He stated that the activities that take place within the premises are not in themselves likely to be unduly disturbing to local residents. He stated though, that he was less sanguine about the appellant's desire to seek a relaxation of condition 2 to permit the premises to remain open until 03.00 at weekends (Friday and Saturday nights), as a use operating until this time in a largely residential area such as this, is likely to give rise to problems, mainly due to activity associated with comings and goings. Residents are likely to find general conversation, even if it is good natured rather than boisterous, and things such as car doors slamming shut and vehicles arriving and departing, disturbing when such activity occurs during a period when people ought reasonably to be able to enjoy a period of relative peace and quiet.

The Inspector also considered that the requirements of the Enforcement Notice were a reasonable response to the breach of planning control alleged therein, and he did not find them excessive.

Finally, given that a business is involved, with attendant implications for jobs and the local economy, the Inspector considered a 14 day compliance period too short. He therefore extended the compliance period to four months to assist the appellant address the consequences of the enforcement action.

In light of the above, the Inspector **dismissed** the appeal. Compliance with the Enforcement Notice is now due by 22nd December 2014.

Does the information submitted include any exempt information? No

List of appendices

None

6.0 Planning/Enforcement Appeals lodged

6.1 351 Promenade, Blackpool. FY1 6BJ (13 / 8370)

An appeal has been submitted by Mr Nabil Awad against an Enforcement Notice served by Blackpool Council on 15th August 2014, in respect of the erection of timber seating structures and tables on the forecourt.

Does the information submitted include any exempt information? No

List of appendices

None

7.0 Legal considerations:

7.1 None

8.0 Human Resources considerations:

8.1 None

9.0 Equalities considerations:

9.1 None

10.0 Financial considerations:

10.1 None

11.0 Risk management considerations:

11.1 None

12.0 Ethical considerations:

12.1 None

13.0 Internal/ External Consultation undertaken:

13.1 None

14.0 Background papers:

14.1 None